

BEFORE THE

ENTERCOM COMMUNICATIONS AND
CBS RADIO SEEK APPROVAL TO
TRANSFER CONTROL OF AND ASSIGN
FCC AUTHORIZATIONS AND LICENSES

TO: Office of the Secretary

ATTN: The Commission

REPLY TO OPPOSITION TO APPLICATION FOR REVIEW

Edward R. Stolz II d/b/a Royce International Broadcasting Company (Stolz), Golden State Broadcasting, LLC (Golden), Silver State Broadcasting, LLC (Silver) and Major Market Radio, LLC (Major), and Deborah J. Naiman (Naiman) (collectively "Petitioners"), by their attorney, and pursuant to 47 CFR §1.115(d), hereby respectfully submit this Reply to the "Opposition to Application for Review" filed on December 22, 2017 by Entercom Communications Corporation (Entercom). In so doing whereof, the following is shown:

Preliminary Statement

1. Section 1.115(d) of the Commission's rules permits ten days for the filing a reply to an opposition to an application for review. In this case, the tenth day subsequent to December 22, 2017 was a federal holiday, January 1, 2018. Today, January 2, 2018, is the first business day of 2018. This pleading is therefore timely filed. 47 CFR §1.4(j).

Reply

2. Entercom argues that Petitioners "simply reiterates arguments made to the Media Bureau without demonstrating any error in the Bureau's resolution of that issue". They also argue that with respect to issues (b) through (d), Petitioners haven't made any arguments at all.

3. We think it is clear that we have argued that the Media Bureau erred by finding that CBS Corporation and its subsidiaries lack the basic character qualifications required of FCC licensees. This is because CBS Corporation and its subsidiaries have been engaged in the broadcast of "fake news" which have the appearance of part of a silent coup to force President Trump to leave his office. We have argued that "fake news" is actually "intentional news distortion", a legal theory which goes back decades at the FCC, which goes directly to a broadcast licensee's basic character qualifications. We have argued that under the FCC's ***Policy on Comparative Qualifications in Broadcast Licensing***, 102 FCC 2d

1179, at footnote 60 (1986), the Commission is not limited to looking at one given station of many owned by a big licensee like CBS, but can look at the entire broadcast operations of a licensee who "engages in conduct so egregious as to shock the conscience and evoke almost universal disapprobation". The totality of our argument was that, since it has repeatedly engaged in "intentional news distortion" since President Trump took office, CBS Corporation lacks basic qualifications, and therefore has nothing to assign to Entercom. *Jefferson Radio Co., Inc. v. FCC*, 340 F.2d 781 (D. C. Cir. 1964).

4. We've also preserved our appeal rights relative to the FCC's refusal to hold a hearing on Entercom's role in the death of Jennifer Lea Strange with respect to the 2005 and 2013 renewal applications of Entercom's other Sacramento cluster stations.

5. As far as reiterating arguments to the en banc FCC that we made to the Media Bureau, we are constrained to point out that we can't raise new arguments at this point that we didn't raise at the Media Bureau. 47 C.F.R. §1.115(c). So we have come to the en banc FCC in hopes that it will open up a hearing proceeding involving the basic qualifications of CBS Corporation to continue to be a Commission licensee. This of course would require the FCC to order the unwinding of the CBS Radio-Entercom merger.

6. It is fascinating to Petitioners that Commissioner Mignon Clyburn issued the following statement last week approving in part and dissenting in part to *i-Wireless, LLC*, FCC 17-187 32 FCC Rcd - (December 29, 2017):

Waste, fraud, and abuse must not be tolerated in any of our Universal Service programs, which is why I will vote to approve these consent decrees. This company has repaid what it wrongfully claimed from USF and voluntarily agreed to remit to the Treasury several multiples of the harm done to the Fund. This investigation and its overall finding represent an efficient use of the Commission's resources, and we eliminate uncertainty for these companies while strongly reinforcing our expectations of Lifeline providers.

However, I am forced to also register a dissent in this case, because while I believe the Commission should have taken strong and decisive action, the Enforcement Bureau under this Chairman **continues to show bias. It essentially gives hall passes to large, well-known corporations when wrongdoing is found, while it fines little-known small businesses and individuals substantial sums of money for harms which are often substantially narrower.** When a company or an individual violates our rules, they should be punished, but that punishment should fit the offense. Any wrongdoing committed by a provider that has accepted an obligation to serve the public, should be fairly and consistently met with forfeitures and negotiated settlements that are more than a mere slap on the wrist. Large corporations simply view relatively meager fines as a mere nuisance expense. My wish for the season? **That we stop this seemingly preferential trend that consistently benefits one class of provider, and that the Commission's rules are vigorously and fairly enforced for all.**

[emphasis supplied]

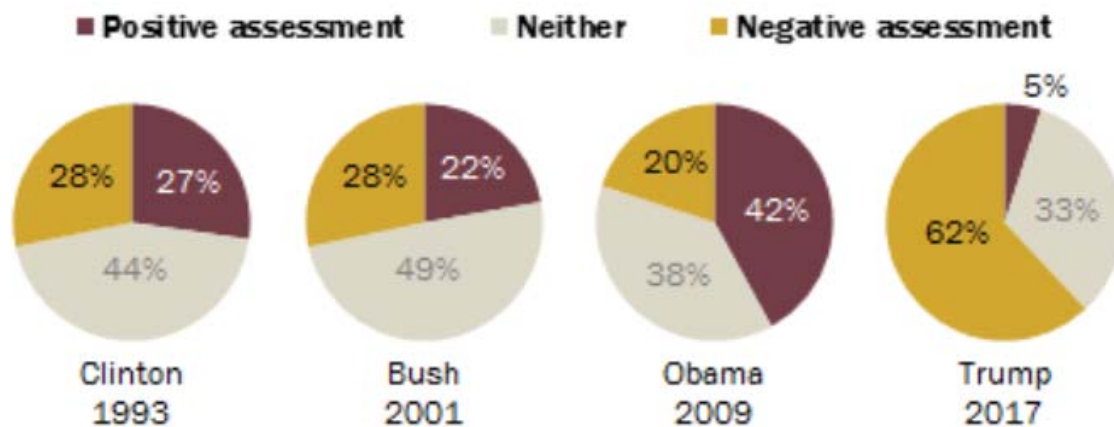
7. The undersigned has long argued that there are two FCCs; one for the connected and the powerful; another for small businesses and unconnected individuals. It is our hope that the other Commissioners will come to this conclusion.

8. It is no surprise therefore that the Media Bureau would not want to investigate CBS Corporation and its "intentional news

distortion" activities. Interestingly, the Washington Examiner on December 27, 2017 published the following written by well-respected reporter Paul Bedard concerning a survey taken by the Pew Research Center¹:

Coverage of Trump's first 60 days delivered greater share of negative assessments than coverage of previous presidents

% of stories from the first 60 days of each presidency that had an overall ...



Note: Stories coded as positive had at least twice as many positive as negative statements; negative stories had at least twice as many negative as positive statements. All other stories are coded as neither. Not shown: 1% of stories in 1993 and 2001 that were coded as satire. Numbers may not add up to 100% because of rounding. 2017 N=326 stories. Source: Pew Research Center content analysis of news stories from national print newspapers, Newsweek, and network TV shows covering the first 60 days (Monday-Friday) of each administration.

"Covering President Trump in a Polarized Media Environment"

9. This is evidence that "intentional news distortion" is rife in this country. When CBS Corporation broadcast that Congressman Steve Scalise brought on himself an attempted

¹<http://www.washingtonexaminer.com/pew-trump-media-three-times-more-negative-than-for-obama-just-5-percent-positive/article/2644448>

assassination attempt by a Democrat party activist and misanthrope, the FCC should have started a "fake news" investigation immediately. Stolz pointed out to the FCC the **Red Lion** doctrine that there is no inherent First Amendment right in a broadcast license. There is no constitutional bar to a full and fair investigation as to "intentional news distortion", which CBS Corporation has engaged in repeatedly in 2017.

10. It is also no surprise that the Commission would not want to complete a fair and impartial investigation of Entercom's role in the death of Jennifer Lea Strange. As we have argued, there is a substantial and material possibility that Entercom may not have suffered much if any economic damages by its gambit to turn in the KDND(FM) license, because it would have been required to divest itself of one of its Sacramento market stations, and tax and accounting considerations may well have been favorable enough to Entercom. To protect the public interest, the FCC had an obligation to look into this. It failed to do so. Public confidence in the federal government is not bolstered by the FCC's failure to investigate.

Conclusion

11. Allegations of intentional news distortion are nothing new at CBS News. **Serafyn v. FCC**, 149 F.3d 1213 (D. C. Cir. 1998). Petitioners renew their prayer for relief that, if the promises of President Trump to "drain the swamp" are to come to anything, the

FCC needs to start here and now and hold either a 403 hearing, or, in the alternative, designate the above-captioned applications for hearing, to determine whether the CBS organization and its principals possess the basic character qualifications required of FCC licensees. It was disappointing that the FCC staff didn't designate the above-captioned proceeding for hearing to determine whether CBS Corporation has engaged in "intentional news distortion" and, if so, whether it possesses the basic character qualifications required to assign its 177 radio licenses to Entercom.

12. Once again, we need to remind the FCC Commissioners that President Trump has called out CBS Corporation for its repeated "fake news" misconduct:



With all of the Fake News coming out of NBC and the Networks, at what point is it appropriate to challenge their License? Bad for country!

9:55 AM - Oct 11, 2017

68,230 18,899 78,126



Network news has become so partisan, distorted and fake that licenses must be challenged and, if appropriate, revoked. Not fair to public!


5:09 PM - 11 Oct 2017

13. In view of the foregoing, Petitioners urge that the Commission vacate DA 17-1100, rescind the grants of all applications in this Docket, and, in addition to the issues listed in Exhibit A hereto, designate all said applications in MB Docket No. 17-85 for a hearing before an independent Administrative Law Judge to determine whether CBS Corporation has engaged in "intentional news distortion", and, if so, what effect that would have on its basic character qualifications to be able to assign its 177 radio stations to Entercom Communications Corporation.

WHEREFORE, it is urged that this Application for Review **BE GRANTED** and that relief as requested herein **BE GRANTED**.

Respectfully submitted,

EDWARD R. STOLZ II, d/b/a ROYCE
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GOLDEN STATE BROADCASTING, LLC
SILVER STATE BROADCASTING, LLC
MAJOR MARKET RADIO, LLC
DEBORAH J. NAIMAN

A handwritten signature in black ink, appearing to read "D. Kelly", written over a horizontal line.

By _____
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DATED: January 2, 2018

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Reply, etc." have been served by e-mail and first-class United States mail, postage prepaid, or by e-mail only where shown by "**", on this 2nd day of January, 2018 upon the following:

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